

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(Big Stone Gap Division)**

MELINDA SCOTT,
Plaintiff,

v.

WISE COUNTY DEPARTMENT OF
SOCIAL SERVICES, *et al.*,

Defendants.

Case No. 2:20-cv-00014-JPJ-PMS

**JOSHUA MOON'S
MOTION FOR LEAVE TO APPEAR
TELEPHONICALLY OR VIRTUALLY**

NOW COMES Joshua Moon, by and through undersigned counsel, and submits this Motion for Leave to Appear Telephonically or Virtually at the upcoming hearing(s) in this matter. ECF Nos. 122-123. In support of this Motion, Mr. Moon states as follows:

1. Mr. Moon is currently in the European Union. He has been in Europe continuously since before this lawsuit began, as referenced in his earlier filings. See, e.g., ECF Nos. 25, 26, 30, 51.
2. Due to ongoing COVID-19 travel restrictions, as well as the escalating conflict in Eastern Europe, it is currently impractical for Mr. Moon to appear personally in Big Stone Gap to offer testimony in this matter. Indeed, even if Mr. Moon were able to overcome the obstacles and travel to the United States, he may be unable to return to his home in Europe due to the ongoing immigration and travel restrictions there.
3. Mr. Moon wishes to have the opportunity to testify in support of his underlying motions in this matter. Specifically, Mr. Moon wishes to testify to the facts contained in his

declarations at ECF Nos. 91 and 99-1, and to the proffered facts contained in the motions and memoranda his counsel has filed elsewhere herein. Mr. Moon further wishes to testify to the nature of his interactions with the Plaintiff, to the duration and extent of her litigation against him, and to the ongoing costs he has borne in this matter (both pecuniary and otherwise). Such testimony will very likely assist this Court in adjudicating the pending motions, and will shed light on the allegations he has made of bad faith on the part of the Plaintiff.

4. Mr. Moon's virtual or telephonic appearance will not prejudice the Plaintiff. Indeed, by minimizing the costs that Mr. Moon incurs and which Mr. Moon argues are recoverable against the Plaintiff, a virtual appearance may actually benefit Ms. Scott.
5. Conversely, requiring Mr. Moon to appear personally would work a prejudice upon him because it would impose great personal and financial burdens upon Mr. Moon. Indeed, this litigation itself was instituted in the Western District of Virginia against an individual who has never submitted himself, intentionally or otherwise, to the jurisdiction of Virginia or its courts. See ECF Nos. 26, 51.
6. Courts have successfully and routinely taken testimony in civil cases through remote means since the COVID-19 pandemic began. None of the underlying allegations in this lawsuit generally or in the instant motions specifically pertain to conduct by Mr. Moon within the United States. All of the ordinary procedures for cross-examination of witnesses and other incidents of Due Process can be protected if Mr. Moon appears virtually, just as they would be used if Mr. Moon appeared personally.
7. Undersigned counsel does not reside in Virginia, but is nevertheless much more accessible to Big Stone Gap than his client is. Counsel is happy to attend the upcoming

hearing(s) either virtually or personally, whichever the Court prefers. To the extent that any potential prejudice to Ms. Scott is a consideration for either her or the Court, undersigned counsel notes that travel to Big Stone Gap will increase the costs of this litigation and that such costs are properly recoverable as a part of or in a supplement to the pending motion at ECF No. 90.

WHEREFORE, Mr. Moon moves that this Court grant him leave to appear telephonically or virtually. Mr. Moon takes no position on whether his counsel or Ms. Scott should appear personally or through remote means.

Respectfully submitted this the 9th day of March, 2022,

JOSHUA MOON

By Counsel:

/s/ Matthew D. Hardin

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Certificate of Service

I hereby certify that I will file a true and correct copy of the foregoing document with the Court's CM/ECF system, which will electronically serve counsel of record. I have also deposited a true and correct copy of the foregoing document into the U.S. Mail, with First Class postage prepaid, directed to:

Melinda Scott
2014PMB87
Post Office Box 1133
Richmond, VA 23218

Dated: March 9, 2022

/s/Matthew D. Hardin
Matthew D. Hardin
Counsel for Joshua Moon